

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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| Applications of Verizon New Jersey Inc. and |) | |
| Verizon New York Inc. To Discontinue Domestic |) | WC Docket Nos. 13-149, 13-150 |
| Telecommunications Services |) | Comp. Pol. File Nos. 1112, 1115 |

COMMENTS OF CENTURYLINK

CenturyLink submits these comments in response to the Commission's June 28, 2013 Public Notices seeking comment on Verizon's applications to discontinue specified domestic telecommunications services provided over facilities destroyed by Hurricane Sandy in certain portions of New York and New Jersey.¹ The Commission should grant both applications.

Just as customers have embraced new technologies and capabilities, regulators must move forward as well. Today, communications occur via wired phones, wireless phones, the Internet, texting, social media and email. It is time for regulators to recognize these changes in customer behavior and adapt to them, rather than hanging on to outdated rules designed for a different world. In order to respond quickly to disasters and minimize outage-related public safety issues, all communications providers need the ability to restore service in the most efficient and expedient way possible, using the full range of available technologies. Monopoly-era regulations requiring just one class of communications providers -- incumbent local exchange carriers (ILECs) -- to build and maintain traditional wireline telephone service are misplaced in today's dynamic, highly disaggregated marketplace. In any event, if policy makers require the

¹ *Comments Invited on Application of Verizon New Jersey Inc. and Verizon New York Inc. To Discontinue Domestic Telecommunications Services*, Public Notice, WC Docket No. 13-149, DA 13-1474 (rel. June 28, 2013) (*Special Access Services Discontinuance PN*); *Comments Invited on Application of Verizon New Jersey Inc. and Verizon New York Inc. To Discontinue Domestic Telecommunications Services*, Public Notice, WC Docket No. 13-150, DA 13-1475 (rel. June 28, 2013) (*Fire Island Discontinuance PN*).

construction or maintenance of communications facilities in uneconomic situations, they should also be responsible for ensuring adequate funding.

While Verizon's petitions are captioned as applications to "discontinue" service, Verizon effectively is asking to be relieved of the obligation to rebuild obsolete copper facilities that were destroyed by the hurricane. These petitions vividly illustrate the extent to which traditional common carrier regulation, particularly of ILECs, has become detached from the realities of the modern communications industry.² In the first application, Verizon seeks authority to discontinue certain special access services in areas of Lower Manhattan, New York, and portions of New Jersey.³ The very names of these services (Metallic Service, Telegraph Grade Service, and Program Audio Service), as well as their description,⁴ confirm that their "discontinuance"⁵ should be uncontroversial. In fact, none of the seven customers subscribing to these services in the affected areas has complained to Verizon about these services being disrupted by the hurricane.

Verizon's second application,⁶ which seeks to discontinue wireline voice service in portions of Fire Island and nearby Barrier Island communities, may be more controversial but should be granted as well. Like in the first application, Verizon asks to be relieved of the

² More than 30 years ago, the Commission recognized the importance of ease of exit in competitive markets. *See In the Matter of Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, First Report and Order, 85 FCC 2d 1, 49 ¶ 147 (1980) ("in a competitive marketplace ease of exit is essential.").

³ Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc., WC Docket No. 13-149 (filed May 24, 2013) (Verizon Special Access Services Discontinuance Application).

⁴ Verizon Special Access Services Discontinuance Application at 3.

⁵ As noted, these services have already effectively been discontinued by the destruction left by Hurricane Sandy. Verizon Special Access Services Discontinuance Application at 2.

⁶ *See* Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc., WC Docket No. 13-150 (filed June 7, 2013) (Verizon Fire Island Discontinuance Application).

obligation to reconstruct copper facilities destroyed by Hurricane Sandy -- in this case given the following compelling circumstances: a very high per-customer cost of rebuilding those facilities, a general shift in customer demand away from landline voice service, and the availability of a lower-cost wireless service that can be deployed more quickly than wireline service and may be less vulnerable to salt water corrosion in these hurricane-prone coastal areas.⁷

Verizon should be given broad latitude to re-establish service on Fire Island in the manner it sees fit, using technologies of its choosing. While some affected customers naturally may prefer the wireline services to which they were accustomed, it appears that the cost of restoring wireline service in the affected areas could not be recovered over a reasonable period of time. According to Verizon's estimates, it would cost \$4.8 to \$6 million to restore wireline service to the approximately 500 affected customer locations on Fire Island.⁸ Even if Verizon could win 100% of these customers once service is restored, the reconstruction of those facilities would cost \$9,600 to \$12,000 *per customer location*.⁹ And, in reality, Verizon would be lucky to win half those customers. Today, about 40 percent of U.S. households rely exclusively on

⁷ As Verizon has noted, the affected areas are similar to greenfield areas. Verizon Policy Blog, *Setting the Record Straight on Fire Island and Voice Link* at 1 (July 11, 2013), available at <http://publicpolicy.verizon.com/blog/entry/setting-the-record-straight-on-fire-island-and-voice-link> ("After Sandy, the western portion of Fire Island was almost like a greenfield development, with little to no infrastructure remaining"). The Commission also acknowledges that many of the affected customers have already lost service, and service cannot be restored without rebuilding facilities. *Fire Island Discontinuance PN* at 5.

⁸ Stop the Cap, *Guest Editorial: Verizon Remains Committed to Fire Island with Voice Link*, available at <http://stopthecap.com/2013/06/19/guest-editorial-verizon-remains-committed-to-fire-island-with-voice-link/> (dated June 19, 2013) ("Verizon's analysis looked at the number of permanent residents on the island, which number about 500, and the costs that Verizon would incur to install and connect new landline facilities there. It would range from \$4.8 million to more than \$6 million.").

⁹ In contrast, the Commission's recent *CAF I Round 2 Order*, the Commission established a per-location cap of \$775 in CAF I funding. *Connect America Fund*, Report and Order, 28 FCC Rcd 7766 ¶ 2 (*CAF I Round 2 Order*) (subsequent history omitted).

wireless voice service,¹⁰ and only about a third subscribe to ILEC voice services.¹¹ Consistent with these national trends, Verizon has found that, even before the hurricane, 80% of the traffic on its network from Fire Island was wireless rather than wireline.¹² Under these circumstances, no rational business would voluntarily incur the cost of replacing the destroyed copper facilities on Fire Island.¹³

¹⁰ Center for Disease Control Report, *Wireless Substitution: Early Release from the National Health Interview Survey, July-December 2012* (June 2013), available at <http://www.cdc.gov/chs/data/nhis/earlyrelease/wireless201306.pdf>.

¹¹ See Letter from Glenn T. Reynolds, USTelecom, to Ms. Marlene Dortch, FCC, GN Docket Nos. 13-5, *et al.* (dated July 1, 2013) (“an analysis of the Commission’s own data shows that ILECs provide switched voice service to less than one-third of the homes passed by their traditional wireline networks nationwide.”) As the New York Commission has noted, “[m]any customers have ‘cut the cord’ relying exclusively on cell phones as their sole source for voice communications,” and “[c]ustomers on Fire Island may do the same[.]” *Tariff Filing by Verizon New York Inc. to Introduce Use of Wireless Technology as an Alternative to Repairing Damaged Facilities*, Order Conditionally Approving Tariff Amendments in Part, Revising in Part, and Directing Further Comments, Case 13-C-0197, at 7 (issued May 16, 2013). Available at: <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C0F21317-B7CE-4AEE-9A38-3393D1DEB670}>.

¹² *Setting the Record Straight* at 1 (“About 80 percent of the voice traffic travelling over the Verizon and Verizon Wireless networks from Fire Island was already wireless before the storm.”). Thus, requiring Verizon to replicate its wireline network on Fire Island would be akin to forcing a typewriter manufacturer to rebuild its storm-destroyed factory and continue making typewriters, rather than personal computers, even though the vast majority of customers have switched to the newer technology.

¹³ The Commission has long found that the financial hardship associated with continuing to provide a service is an important factor in evaluating a request to discontinue provision of that service. See, e.g., *Inquiry Into Problems of Public Coast Radiotelegraph Stations*, Memorandum Opinion and Order, 67 F.C.C. 2d 790, 796 ¶ 12 (1978) (“Although a carrier may devote its property to the use of the public, it does so on the expectation that the public shall supply sufficient traffic on a reasonable rate basis to yield a fair return. The charter or license of a carrier does not obligate the carrier to irrevocably or absolutely operate at a loss.”) (citations omitted); *AT&T Communications’ Application to Discontinue Domestic Telecommunications Services*, Memorandum Opinion and Order, 18 FCC Rcd 24376 ¶ 7 (2003) (agreeing that AT&T would suffer substantial financial hardship unless the Commission granted permission to discontinue service, given that the monthly costs to operate the service far exceeded its revenues); *Verizon Telephone Companies; Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation*, Order, 18 FCC Rcd 22737 ¶ 10 (2003) (agreeing that requiring Verizon to continue offering section 201 physical collocation in its

In earlier days, Verizon might have been able to recover such costly reconstruction expenses through a combination of explicit subsidies and implicit subsidies. Not any longer. Verizon currently receives very little universal service support for Fire Island, nowhere approaching the amounts needed to cover the cost of replacing the destroyed copper facilities.¹⁴ Verizon also cannot hope to recover the cost of reconstructing copper facilities on Fire Island through above-cost rates in other areas or for other services. ILECs now compete head-to-head with multiple competitors -- often based on price -- virtually everywhere. Any attempt to charge above-cost rates for one of these services would be met with an even greater exodus to competing providers. The era of implicit subsidies is long past.

Given the circumstances noted above, requiring Verizon to reconstruct its wireline network on Fire Island would constitute an unfunded mandate. If this Commission (or the New York Commission) concludes that the public interest requires the reconstruction of wireline facilities in the affected communities, it must find a public source of funding to pay for it.

federal tariffs would create a financial burden on the company); *Section 63.71 Application of Sprint Communications Company L.P. for Authority to Discontinue Domestic Telecommunications Services*, Order, 23 FCC Rcd 17048, 17052 ¶ 8 (2008) (granting authority for Sprint to discontinue service that was in conflict with its overall business plan).

¹⁴ To the extent Verizon is eligible for CAF II support for providing broadband and voice service, that support is not yet available and the associated obligation to provide those services would commence only if and when Verizon accepts that support.

For all these reasons, the Commission should grant Verizon's applications to discontinue service in the affected areas.¹⁵

Respectfully submitted,

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¹⁵ At a minimum, the Commission should grant Verizon conditional authority to discontinue service in conformance with the New York Commission's conditional approval of Verizon's deployment of Voice Link service on Fire Island as a replacement to wireline voice service. *New York PSC Conditional Approval* at 7. Given the New York Commission's front-line role in addressing Hurricane Sandy's destruction in its state, it would make no sense for this Commission to impose reconstruction obligations that exceed those of the state commission.

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF CENTURYLINK** to be served, via e-mail and facsimile on Carmell Weathers of the FCC, and on Katharine R. Saunders and William H. Johnson of Verizon, via U.S. Mail, as indicated on the attached list.

/s/ Richard Grozier

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